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# 6

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In re Application of  
DESMOTS et al : DECISION ON  
Application No.: 09/381,890 :  
PCT No.: PCT/GB98/00950 : PETITION  
Int. Filing Date: 30 March 1998 :  
Priority Date: 09 April 1997 : UNDER 37 CFR 1.182  
Attorney Docket No.: 08291/619001 :  
For: DIPALATORY COMPOSITIONS, THEIR  
PREPARATION AND USE :

This decision is in response to the "Petition under 37 CFR 1.182" filed 05 June 2000. The required petition fee has been paid.

BACKGROUND

On 30 March 1998, applicants filed international application No. PCT/GB98/00950, which claims a priority date of 09 April 1997 and designates the United States. A Demand, in which the U.S. was elected, was filed within 19 months of the priority date. Accordingly, the deadline for entry into the national stage in the U.S. expired as of midnight of 09 October 1999.

On 24 September 1999, applicants filed in the United States Patent and Trademark Office (USPTO) a Transmittal Letter (Form PTO-1390) accompanied by, *inter alia*, an unexecuted declaration.

On 02 November 1999, a "Notification of Missing Requirements Under 35 USC 371" (Form PCT/DO/EO/905) was mailed to applicants requiring an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and surcharge fee under 37 CFR 1.492(e). A one month period for reply was set therein.

On 03 April 2000, applicants filed an executed declaration, surcharge fee under 37 CFR 1.492(e), and petition/fee for a four month extension of time. The declaration identified an inventor's name not appearing in the published international application, i.e., Severine

Poette, and failed to identify an inventor's name that does appear therein, i.e. Severine Hemery.

On 04 May 2000, a "Notification of Defective Response" (Form PCT/DO/EO/916) was mailed to applicants indicating that the declaration failed to identify the inventors.

On 05 June 2000, applicants filed the present renewed petition indicating that Ms. Hemery's last name was changed to "Poette" as a result of marriage.

### DISCUSSION

MPEP § 605.04(c) requires in instances where an inventor has changed his or her name after the application has been filed to submit a petition under 37 CFR 1.182. The petition must include (1) the appropriate petition fee and (2) an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

As indicated in the prior decision, the petition fee has been paid. With regards to item (2), the present petition is accompanied by an affidavit signed by Severine Poette with both names setting forth the procedure whereby the change of name was effected. Accordingly, the petition under 37 CFR 1.182 is granted.

However, the executed declaration filed 03 April 2000 fails to comply with 37 CFR 1.497(a), as it does not appear to have been properly executed. Specifically, the declaration includes two pages both identifying inventors DESMOTS and DELAGNEAU. However, one of the pages, DESMOTS is crossed out, and on the other page, DELAGNEAU is crossed out. Accordingly, inventorship is unclear. Further, as the only reasonable explanation for having these inventors sign separate sheets would appear to be either that these inventors were presented with !) only the signature sheet of the declaration for execution, or 2) the complete declaration, which was subsequently disassembled by counsel to produce the composite declaration that was filed in the USPTO. Either is improper. For the same reasons, the two declaration sheets identifying only inventors Poette and Dahms render the declaration unacceptable. Finally, the first page of the declaration indicates that is executes the specification "attached thereto", however, no such specification was attached.

### CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is **GRANTED**.

Applicants are hereby given **ONE MONTH** from the mail date of this decision to file an oath or declaration in compliance with 37 CFR 1.497(a)-(b). Failure to file the proper reply will result in **ABANDONMENT** of the application. Extensions of time under 37 CFR 1.136 are available.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.



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